

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

Robert J. Gagalis

v.

Case No. 08-cv-269-PB

United States of America

O R D E R

Robert Gagalis has filed a motion collaterally attacking his conviction and sentence pursuant to 28 U.S.C. § 2255. On June 3, 2007, Gagalis orally waived his right to collateral review of his conviction and sentence and agreed to a 138-month sentence in exchange for the government's agreement not to challenge the sentence on appeal.

Gagalis argues that his collateral review waiver is unenforceable because it was induced by the ineffective assistance of his attorneys. Among other things, Gagalis claims that his attorneys were ineffective because they were subject to an impermissible conflict of interest when they advised him with respect to the collateral review.

The clerk shall set a date and time for an evidentiary hearing on Gagalis's motion. The hearing shall be limited to

Gagalis's claim that the collateral review waiver is invalid. If I determine that the waiver is invalid, I will set a status conference to establish a process for resolving the remaining issues.

SO ORDERED.

/s/Paul Barbadoro
Paul Barbadoro
United States District Judge

May 19, 2009

cc: Michael Artan, Esq.
Stephen M. Rasche, Esq.
Terry Ollila, Esq.